Corrected to March 20, 1946

UNITED STATES DEPARTMENT OF AGRICULTURE
PRODUCTION AND MARKETING ADMINISTRATION
TOBACCO BRANCH

PROVISIONS OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED, RELATING SPECIFICALLY TO TOBACCO MARKETING QUOTAS 1/

TITLE III. . . . . .MARKETING QUOTAS

DEFINITIONS

"SEC. 301 (a)

"(1) 'Parity', as applied to prices for any agricultural commodity, shall be that price for the commodity which will give to the commodity a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodity in the base period; and, in the case of all commodities for which the base period is the period August 1909 to July 1914, which will also reflect current interest payments per acre on farm indebtedness secured by real estate, tax payments per acre on farm real estate, and freight rates, as contrasted with such interest payments, tax payments, and freight rates during the base period. The base period in case of all agricultural commodities except tobacco shall be the period August 1909 to July 1914. In the case of all kinds of tobacco except Burley and flue-cured such base period shall be the period August 1919 to July 1929, and, in the case of Burley and flue-cured tobacco, shall be the period August 1934 to July 1939; except that the August 1919-July 1929 base period shall be used in allocating any funds appropriated prior to September 1, 1940. (7 U. S. C. 1940 ed. 1301(a), Feb. 16, 1938, 52 Stat. 38, amended November 22, 1940, 54 Stat. 1210.)

"(b) (3) (c). 'Carry-over' of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current, except that it shall not include any amount of such tobacco of the 1939 and 1940 crops which the Secretary determines is stored temporarily in the United States because of war or other unusual conditions delaying the normal exportation thereof, and, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

"(6) (A) 'Market', in the case of . . . . . tobacco, means to dispose of in raw or processed form, by

1/ The date and citation of amendments to the Act are given at the end of the amended section. Inapplicable provisions of Section 312 and 313 omitted.

voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

"(7). 'Marketing year' means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Tobacco (flue-cured), July 1-June 30;
Tobacco (other than flue-cured), October 1-September 30;

"(10) (B). The 'Normal supply' of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"(11) (B). 'Normal year's domestic consumption', in the case of . . . . . tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"(12). 'Normal year's exports' in the case of . . . . . tobacco shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years . . . . . immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

"(14) (B). 'Reserve supply level' of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

"(15). 'Tobacco' means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 and 14;
Fire-cured tobacco, comprising types 21, 22, 23 and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;
Cigar filler tobacco, comprising type 41.

"The provisions of this title shall apply to each of such kinds of tobacco severally; provided, that any one or more of the types comprising any such kind of tobacco shall be treated as a 'kind of tobacco' for the purposes of this Act if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand.

"(16) (B). 'Total Supply' of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type 46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar-filler and cigar-binder tobacco." (7 U.S.C. 1940 ed. 1301 (b); Feb. 16, 1938, 52 Stat. 38-43, as amended June 13, 1940, 54 Stat. 392; July 2, 1940, 54 Stat. 727; Nov. 22, 1940, 54 Stat. 1210.)

"SEC. 301 (c) The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act." (7 U.S.C. 1940 ed. 1301(c), Feb. 16, 1938, 52 Stat. 43.)

LOANS ON AGRICULTURAL COMMODITIES

"SEC. 302 (a). The Commodity Credit Corporation is authorized, upon recommendation of the Secretary and with the approval of the President, to make available loans on agricultural commodities (including dairy products). Except as otherwise provided in this section, the amount, terms, and conditions of such loans shall be fixed by the Secretary, subject to the approval of the Corporation and the President. (7 U.S.C. 1940 ed. 1302(a), Feb. 16, 1938, 52 Stat. 43)

"(f) For the purposes of subsections (b), (c), and (d), a cooperator shall be a producer on whose farm the acreage planted to the commodity for a crop with respect to which the loan is made does not exceed the farm acreage allotment for the commodity under this title, ... For the purposes of this subsection a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded his farm acreage allotment." (7 U.S.C. 1940 ed. 1302(f), Feb. 16, 1938, 52 Stat. 44.)

"(h) No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan under this section unless such loan was obtained through fraudulent representations by the producer." (7 U.S.C. 1940 ed. 1302(h), Feb. 16, 1938, 52 Stat. 44.)

(Public Law 74 2/, 77th Cong., May 26, 1941, 54 Stat. 203, as amended Dec. 26, 1941, 552 Stat. 860, provides in part:

"(10) The Commodity Credit Corporation is directed to make available upon the 1941, 1942, 1943, 1944, 1945, and 1946 crops of the commodities . . . . tobacco . . . . for which producers have not disapproved marketing quotas for the marketing year beginning in the calendar year in which such crop is harvested, loans as follows:

"(a) To cooperators . . . . at the rate of 85 per centum of the parity price for the commodity as of the beginning of the marketing year;

"(b) . . . . . .

"(c) To noncooperators . . . . at the rate of 60 per centum of the rate specified in (a) above and only on so much of the commodity as would be subject to penalty if marketed.)

(Pbulic Law No. 729, 77th Cong., approved October 2, 1942, 56 Stat. 765, provides in part as follows: "SEC. 8 (a) The Commodity Credit Corporation is authorized and directed to make available upon any crop of the commodities . . . . . tobacco harvested after December 31, 1941, and before the expiration of the two-year period beginning with the 1st day of January immediately following the date upon which the President by proclamation or the Congress by concurrent resolution declares that hostilities in the present war have terminated, if producers have not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which such crop is harvested, loans as follows:

"(1) To cooperators . . . . at the rate of 90 per centum of the parity price for the commodity as of the beginning of the marketing year;

"(2) . . . . . .

"(3) To noncooperators . . . . . at the rate of 60 per centum of the rate specified in (1) above and only on so much of the commodity as would be subject to penalty if marketed.")

(Public Law 163, 79th Cong., approved July 28, 1945, 59 Stat. 506, provides: "Notwithstanding any other provision of law, the Commodity Credit Corporation is authorized and directed, beginning with the 1945 crop, to make available upon any crop of

2/ This provision is unapplicable until two years after the war. See Public Law 729, 77th Cong. infra.

fire-cured, dark air-cured and Virginia sun-cured tobacco, if producers have not disapproved marketing quotas for such tobacco for the marketing year beginning with the calendar year in which such crop is harvested, loans or other price support at, in the case of fire-cured tobacco, 75 per centum of the loan rate for burley tobacco for the corresponding crop and, in the case of dark air-cured and Virginia sun-cured tobacco, at 66 2/3 per centum of such burley tobacco loan rate.")

PARITY PAYMENTS

"SEC. 303. If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of . . . . . tobacco, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payments with respect to these commodities shall, unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law." (7 U.S.C. 1940 ed. 1303, Feb. 16, 1938, 52 Stat. 45.)

CONSUMER SAFEGUARDS

"SEC. 304. The powers conferred under this Act shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this act it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers." (7 U.S.C. 1940 ed. 1304, Feb. 16, 1938, 52 Stat. 45.)

MARKETING QUOTAS - TOBACCO
Legislative Findings

"SEC. 311 (a) The marketing of tobacco constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Tobacco produced for markets is sold on a nationwide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For

these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the nationwide market. (7 U.S.C. 1940 ed. 1311(a), Feb. 16, 1938, 52 Stat. 45.)

"(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products. (7 U.S.C. 1940 ed. 1311(b), Feb. 16, 1938, 52 Stat. 45.)

"(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this Part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce." (7 U.S.C. 1940 ed. 1311(c), Feb. 16, 1938, 52 Stat. 46.)

NATIONAL MARKETING QUOTA

"SEC. 312. (a) Whenever the Secretary finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year. The amount of the national marketing quota so proclaimed may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands, or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level. (7 U.S.C. 1940 ed. 1312 (a), Feb. 16, 1938, 52 Stat. 46, as amended Aug. 7, 1939, 53 Stat. 1261; June 13, 1940, 54 Stat. 392; Feb. 28, 1942, 56 Stat. 121.)

(Public Law 118, 78th Cong., approved July 7, 1943, 57 Stat. 387, as amended by Public Law 276, 78th Cong., approved March 31, 1944, 58 Stat. 136, and by Public Law 302, 79th Cong., approved February 19, 1946, provides: "That notwithstanding the provisions of Section 312(a) of the Agricultural Adjustment Act of 1938, as amended, relating to the finding of the total supply of tobacco, the reserve supply level and the amount of the national marketing quota, and the provisions of Section 313 of said Act relating to the apportionment of the national marketing

quota for tobacco among the States and farms, national marketing quotas for burley and flue-cured tobacco for the marketing years 1944-45, 1945-46, 1946-47 and 1947-48 shall be proclaimed and the national marketing quota proclaimed by the Secretary and the State and farm acreage allotments established pursuant to the proclaimed national quota for burley tobacco for the 1946-47 marketing year shall be reduced uniformly so as to make available a supply of burley tobacco for such marketing year not less than the reserve supply level: Provided, That no allotment of one acre or less shall be reduced by more than 10 per centum.3/ This joint resolution shall not have the effect of modifying or repealing any other provision of said act.")

"(b) Within thirty days after the date of the issuance of the proclamation specified in subsection (a) of this section, the Secretary shall conduct a referendum of farmers who were engaged in production of the crop of tobacco harvested prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quota. If more than one-third of the farmers voting in the referendum oppose such quota, the Secretary shall, prior to the 1st day of January, proclaim the result of the referendum and such quota shall not be effective thereafter. In the same referendum the Secretary shall also submit to such farmers the question of whether they favor tobacco marketing quotas for a period of three years, beginning with the marketing year next following. If two-thirds of the farmers voting on this question favor marketing quotas for a three-year period, the Secretary shall proclaim marketing quotas for such period, and, beginning on the first day of the marketing year next following

3/ Public Law 302, 79th Cong., approved February 19, 1946, is not applicable to flue-cured tobacco for the 1946-47 marketing year. Accordingly, as applied to flue-cured tobacco for the 1946-47 marketing year, Public Law 118, 78th Cong., approved July 7, 1943, 57 Stat. 387, as amended by Public Law 276, 78th Cong., approved March 31, 1944, 58 Stat. 136, provides: "That notwithstanding the provisions of Section 312(a) of the Agricultural Adjustment Act of 1938, as amended, relating to the finding of the total supply of tobacco, the reserve supply level and the amount of the national marketing quota, and the provisions of Section 313 of said Act relating to the apportionment of the national marketing quota for tobacco among the States and farms, national marketing quotas for burley and flue-cured tobacco for the marketing years 1944-45, 1945-46 and 1946-47 shall be proclaimed and the national marketing quotas and State and farm acreage allotments shall be the same as for the preceding year: Provided, however, That an additional acreage not in excess of 2 per centum of the total acreage allotted to all farms in each State in 1940 shall be allotted in accordance with the applicable provisions of subsection (a) of section 313 and an additional acreage equal to not more than 5 per centum of the national marketing quota shall be allotted to farms on which no tobacco was produced in the last five years in accordance with the provisions of subsection (g) of section 313. This joint resolution shall not have the effect of modifying or repealing any other provision of said Act."

and continuing throughout the period so proclaimed, a national marketing quota shall be in effect for the tobacco marketed during each marketing year in said period unless amendments are made in the provisions for determining farm allotments so as to cause material revision of such allotments before the end of such period. If more than one-third of the farmers voting on this question oppose marketing quotas for the three-year period, such result shall be proclaimed by the Secretary and quotas for a longer period than one year shall not be in effect, but such results shall in no wise affect or limit the proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota for any marketing year thereafter." (7. U.S. C. 1940 ed. 1312(b), Feb. 16, 1938, 52 Stat. 46, as amended June 13, 1940, 54 Stat. 392; Nov. 22, 1940, 54 Stat. 1209.)

"SEC. 313. (a) The national marketing quota for tobacco established pursuant to the provisions of section 312, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar years immediately preceding the calendar year in which the quota is proclaimed (plus, in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provisions of this section and section 312, except the provisions in subsection (g) of this section relating to reduction of allotments, for any of the three marketing years, 1941-42 to 1943-44, in which a national marketing quota is in effect for burley or flue-cured tobacco, such national marketing quota shall not be reduced below the 1940-41 national marketing quota by more than 10 per centum and the farm acreage allotments (other than allotments established in each year under subsection (g) of this section for farms on which no tobacco was produced in the last five years) shall be determined by increasing or decreasing the farm-acreage allotments established in the last preceding year in which marketing quotas were in effect in the same ratio as such national marketing quota is increased or decreased above or below the last preceding national marketing quota: Provided, That in the case of flue-cured tobacco no allotment shall be decreased below the 1940 allotment if such allotment was two acres or less, and in the case of Burley tobacco no allotment shall be decreased below the 1939 allotment if such allotment was one half acre or less, or below the 1940 allotment if such allotment was over one-half acre and not over one acre: And provided further, That an additional acreage not in excess of 2 per centum of the total acreage allotment to all farms in each State in 1940 shall be allotted by the local committee, without regard to the ratio aforesaid, among farms in the State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committees finds will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices: And provided further, That the Burley tobacco acreage allotment which would otherwise established for any farm having a Burley acreage allotment

in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State Acreage allotments. (7 U.S.C. 1940 ed. 1313(a), Feb. 16, 1938, 52 Stat. 47, as amended June 13, 1940, 54 Stat, 392; April 29, 1943, Public Law 43, 78th Cong., 57 Stat. 69.)

(Public Law 276, 78th Cong., approved March 31, 1944, 58 Stat. 136, provides: "That notwithstanding the provisions of section 313(a) of the Agricultural Adjustment Act of 1938, as amended, the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1943 shall not be less than one acre, or 25 per centum of the cropland, whichever is the smaller, and the acreage required for apportionment under this joint resolution shall be in addition to the National and State acreage allotments.")

"(b) The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco:..... (7U.S.C. 1940 ed. 1313(b), Feb. 16, 1938, 52 Stat. 47.)

"(c) The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective.....on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: Provided, That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco. (7 U.S.C. 1940 ed. 1313(c), Feb. 16, 1938, 52 Stat. 47.)

"(d) Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations. (7 U.S.C. 1940 ed. 1313(d), Feb. 16, 1938, 52 Stat. 48.)

"(e) 4/ [In the case of flue-cured tobacco, the national quota .. is increased ..... for each year by a number of pounds sufficient to assure that any State receiving receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the preceding five years of five hundred acres of such tobacco. (7 U.S.C. 1940 ed. 1313(e), April 7, 1938, 52 Stat. 202, as amended May 31, 1938, 52 Stat. 586.)]

"(f) .....

"(f) .....

"(g) Notwithstanding any other provision of this section, the Secretary on the basis of average yield per acre of tobacco for the State during the five years last preceding the year in which the national marketing quota is proclaimed, adjusted for abnormal conditions of production, may convert the State marketing quota into State acreage allotment, and allot the same through the local committees among farms on the basis of the factors set forth in subsection (b), using past acreage (harvested and diverted) in lieu of the past marketing of tobacco; and the Secretary on the basis of the national average yield during the same period, similarly adjusted, may also convert into an acreage allotment the amount reserved from the national quota pursuant to the provisions of subsection (c) and on the basis of the factors set forth in subsection (c) and the past tobacco experience of the farm operator, allot the same through the local committees among farms on which no tobacco was produced during the last five years. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operators, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the percentage by which the normal yield of such allotment (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco; Provided, That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a) The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. (7 U.S.C. 1940 ed. 1313(g) Aug. 7, 1939, 53 Stat. 1261.)

4/ This section inapplicable during marketing years 1941-42 through 1945-46 see section 313(a) and public law 118, 78th Cong. supra.

"(h) Notwithstanding any other provision of this part I, any person who owned a farm, which in 1940 or thereafter was acquired by the United States for national-defense purposes, and who ownes or acquires one or more other farms, shall, upon application to the local committee, be entitled to have an allotment for any one of such other farms owned by him for each of the five years succeeding the acquisition by the United "States equal to the allotment which would have been made to such farm plus the allotment which would have been made to the farm acquired by the United States except for such acquisition: Provided That such allotment shall not exceed 50 per centum of the acreage of cropland in the farm in the case of flue-cured tobacco, and 20 per centum of the acreage of cropland in the farm, in the case of kinds of tobacco other than flue-cured. Any farm for which the allotment has been determined under this subsection shall, after the end of such five years, have its allotment determined on the basis of past acreage of tobacco, land, labor, and equipment available for the production of tobacco, crop-rotation practices, and soil and other physical factors affecting the production of tobacco: Provided, further, That the provisions of this subsection shall not be applicable so long as there is any penalty due and unpaid, or a failure to account for the disposition of tobacco produced on the farm acquired by the United States, or if the allotment next established for such farm would have been reduced because of the false or improper identification of tobacco produced on or marketed from such farm. Nothing in this subsection shall be construed as preventing the Secretary from operating any allotment pool from which allotments are made to share tenants or sharecroppers who move from farms acquired by the United States for national-defense purposes to other farms purchased and operated by such persons." (Public Law 439, 77th Cong., approved Feb. 6, 1942, 56 Stat. 51.)

(Public Law 163, 79th Cong., approved July 28, 1945, 59 Stat. 506, provides: "That notwithstanding the provisions of section 312(a) of the Agricultural Adjustment Act of 1938, as amended, relating to the finding of the total supply of tobacco, the reserve supply level, and the amount of the national marketing quota, and the provisions of section 313 of said Act relating to the apportionment of the national marketing quota for tobacco among the States and farms, national marketing quotas for fire-cured and dark air-cured tobacco for the marketing years 1946-1947, 1947-1948, and 1948-1949, shall be proclaimed and the national marketing quota and State and farm acreage allotments shall be the same for the marketing year 1946-1947 as were established for the marketing year 1943-1944, and the farm acreage allotments for the marketing years 1947-1948 and 1948-1949 shall be increased or decreased in the ratio which the national marketing quota for the 1943-1944 marketing year bears to the amount of tobacco which the Secretary determines to be required to make the carry-over at the beginning of the marketing year equal the reserve supply level: Provided, however, That an additional acreage not in excess of 5 per centum of the total acreage alloted to all farms in

each State for the 1943-1944 marketing year shall be allotted each year by the local committees among farms in the State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committee find will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices, and an additional acreage equal to not more than 5 per centum of the acreage allotted to all farms for the 1943-1944 marketing year shall be allotted each year to farms on which no tobacco was produced in the last five years in accordance with the provisions of subsection (g) of section 313 applicable to farms on which no tobacco was produced during the last five years. The foregoing provisions of this section shall not have the effect of modifying or repealing any other provisions of said Act.)

PENALTIES

"SEC. 314. (a) The marketing of any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 40 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.5/ Such penalty shall be paid by the person who acquires such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: Provided, That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer.

5/ The amendment contained in Public Law 302, 79th Cong., approved February 19, 1946, becomes effective July 1, 1946, except that in the case of flue-cured tobacco such amendment shall become effective May 1, 1947. Accordingly, in the case of all kinds of tobacco during the period prior to July 1, 1946, and in the case of flue-cured tobacco during the period prior to May 1, 1947, the first sentence of section 314(a), as amended, should read as follows:

> "The marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco."

Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketingyear beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins. (7 U.S.C. 1940 ed. 1314(a), Feb. 16, 1938, 52 Stat. 48, as amended Aug. 7, 1939, 53 Stat. 1262; June 13, 1940, 54 Stat. 393; February 19, 1946, Public Law 302, 79th Cong.)

"(b) The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when detereined in accordance with regulations prescribed by the Secretary, shall be final and conclusive." (7 U.S.C. 1940 ed. 1314 (b), June 13, 1940, 54 Stat. 393)

PUBLICATION AND REVIEW OF QUOTAS

"SEC. 361. This Part shall apply to the publication and review of farm marketing quotas established for tobocco, ..., established under subtitle B." (7 U.S.C. 1940 ed. 1361, Feb. 16, 1938, 52 Stat. 62.)

Publication and Notice of Quota

"SEC. 362. All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota for his farm shall be mailed to the farmer." (7 U.S.C. 1940 ed. 1362, Feb. 16, 1938, 52 Stat. 62.)

Review by Review Committee

"SEC. 363. Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 362, have such quota reviewed by a local review committee composed of three farmers appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final." (7 U.S.C. 1940 ed., 1363, Feb. 16, 1938, 52 Stat. 63.)

"SEC. 364. The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee, utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended. The members ofthe review committee shall not be entitled to receive compensation for more than thirty days in any one year." (7 U.S.C. 1940 ed. 1364, Feb. 16, 1938, 52 Stat. 63.)

Institute of Proceedings

"SEC. 365. If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after notice of such determination is mailed to him by registered mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdication, sitting in the county or the district in which has farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact." (7 U.S.C. 1940 ed. 1365, Feb. 16, 1938, 52 Stat. 63.)

Court Review

"SEC. 366. The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. At the earliest convenient time, the court, in term time or vacation, shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires." (7 U.S.C. 1940 ed. 1366, Feb. 16, 1938, 52 Stat. 63.)

Stay of Proceedings and Exclusive Jurisdiction

"SEC. 367. The commencement of judicial proceedings under this Part shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this Part to review the legal validity of a determination made by a review committee pursuant to this Part shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this Part." (7 U.S.C. 1940 ed. 1367, Feb. 16, 1938, 52 Stat. 64.)

No Effect on Other Quotas

"SEC. 368. Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this Part, the marketing quotas for other farms shall not be affected." (7 U.S.C. 1940 ed. 1368, Feb. 16, 1938, 52 Stat. 64.)

GENERAL ADJUSTMENT OF QUOTAS

"SEC. 371. (a) If at any time the Secretary has reason to believe that in the case of ..... tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigations the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply. (7 U.S.C. 1940 ed. 1371(a), Feb. 16, 1938, 52 Stat. 64.)

"(b) If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota for ..... tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary in order to effectuate the declared policy of this Act or to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota shall be increased, or shall terminate, as the case may be. (7 U.S.C. 1940 ed. 1371(b), Feb. 16, 1938, 52 Stat. 64.)

(Public Law 138, 78th Cong. approved July 12, 1943, 57 Stat. 521, provides in part: "Section 3. The Secretary of Agriculture is hereby authorized and directed to suspend all quota provisions and other limitations with respect to the production of agricultural commodities on any lands affected by flood in 1943 whenever he finds that crops have been destroyed or plantings interfered with or washed out on said lands by reason of such floods, and he is further authorized to permit the maximum planting on such lands of any crops which are essential to the war effort, without the imposition of any penalty or the withholding of any benefit, soil conservation, or other agricultural payments.")

"(c) In case any national marketing quota for any commodity is increased under this section, each farm marketing quota for the commodity

shall be increased in the same ratio." (7 U.S.C. 1940 ed. 1371(c), Feb. 16, 1938, 52 Stat. 64.)

PAYMENT AND COLLECTION OF PENALTIES

"SEC. 372. (b) All penalties provided for in Subtitle B shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Sectetary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. The amount of such penalties shall be covered into the general fund of the Treasury of the United States. (7 U.S.C. 1940 ed. 1372(b), Feb. 16, 1938, 52 Stat. 65.)

"(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this Act, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

"Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) hereof by means of such identification without reference to the names of the producers on such farms.

"The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds. (7 U.S.C. 1940 ed. 1372(c), added April 7, 1938, 52 Stat. 204, amended July 2, 1940, 54 Stat. 728.)

"(d) No penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station." (7 U.S.C. 1940 ed. 1372(d), April 7, 1938, 52 Stat. 204.)

REPORTS AND RECORDS

"SEC. 373. (a) This subsection shall apply to warehousemen, processors, and common carriers of ..... tobacco, and .....

all persons engaged in the business of purchasing ..... tobacco from producers, and all persons engaged in the business of redrying, prizing, or stemming tobacco for producers. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this title. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: Provided, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mailor by posting the same at any established place of business operated by him, or both. (7 U.S.C. 1940 ed. 1373(a), Feb. 16, 1938, 52 Stat. 65, as amended June 13, 1940, 54 Stat. 394.)

"(b) Farmers engaged in the production of..... ..... tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this title. (7 U.S.C. 1940 ed. 1373(b), Feb. 16, 1938, 52 Stat. 65.)

"(c) All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this title." (7 U.S.C. 1940 ed. 1373(c), Feb. 16, 1938, 52 Stat. 65.)

REGULATIONS

"SEC. 375. (a) The Secretary shall provide by regulations for the identification, wherever necessary, of.....

tobacco so as to afford aid in discovering and identifying such amounts of the commodity as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this title. (7 U.S.C. 1940 ed. 1375(a), Feb. 16, 1938, 52 Stat. 66.)

"(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this title." (7 U.S.C. 1940 ed. 1375(b), Feb. 16, 1938, 52 Stat. 66.)

COURT JURISDICTION

"SEC. 376. The several district courts of the United States are hereby vested with jurisdiction specifically to enforce the provisions of this title. If and when the Secretary shall so request, it shall be the duty of the several district attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this title. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law." (7 U.S.C. 1940 ed. 1376, Feb. 16, 1938, 52 Stat. 66.)

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